

other telecommunications entities from any other country except where and to the extent justified by demonstrable differences in cost.

(d) neither the foreign carrier nor its U.S. affiliate will refile U.S. originating or terminating traffic, without the consent of the originating and terminating carriers;

(e) the foreign carrier will make available to all U.S. carriers (unless expressly prohibited by foreign regulatory law), published and tariffed interconnection or distribution arrangements that are unbundled by discrete functions, including arrangements for servicing, provisioning, testing and maintenance; and offered on an unbundled basis at the same rates, and under the same terms and conditions, as provided to its U.S. affiliate or used in connection with its own services; and

(f) the foreign carrier will establish, and disclose, those structural or non-structural safeguards implemented to assure that information received from other U.S. carriers is protected and not used for the benefit of itself or its U.S. affiliate;

(g) the U.S. affiliate will not acquire or enjoy any right, for the purposes of handling or interchanging traffic to or from the U.S., or with respect to revenue flows to or from the U.S., which is denied to any other U.S. carrier by reason of any concession, contract, understanding, or working arrangement to which the foreign carrier or its U.S. affiliate are parties; and

(h) such other conditions as the Commission may deem appropriate in the circumstances.

xx.02 In applying the provisions of this section:

(1) "Affiliate" shall mean those entities in which a foreign carrier holds, directly or indirectly, an ownership interest of five (5) percent or more, or that are controlled by a foreign carrier. For purposes of this calculation, the Commission will employ the same

procedures set forth in Section 63.54(e) of these rules.

(2) "Comparable competitive opportunity" shall mean the practical opportunity to offer basic and enhanced telecommunications services to the same extent as that opportunity exists in the United States, taking into account both legal regulation and market structure.

(a) The Commission will consider in arriving at its determination of comparable competitive opportunity:

(i) whether U.S. carriers are free to offer, under terms and conditions that are substantially similar to those applicable to the franchised facilities-based providers in the foreign country, the same or substantially similar services that the foreign carrier (or its U.S. affiliate) offers or seeks to offer in the U.S.; (2) whether structural separation or non-structural safeguards exist between monopoly and competitive market segments, including the existence of cost-allocation rules preventing cross-subsidization among monopoly and competitive services; (3) the availability of equal access, both from customer and technical interconnection perspectives; (4) the availability of published, non-discriminatory tariffs offering access and other forms of interconnection to existing distribution facilities of the franchised facilities-based carriers in the home country; (5) the ability of customers to access new carriers without changing their telephone number or dialing extra digits; (6) timely and non-discriminatory disclosure of network information; (7) the protection of carrier and customer proprietary information; (8) whether, in light of all the above indicators, effective competition actually exists; and (9) such other matters as the Commission may consider appropriate.

(ii) In determining whether such comparable opportunity will be present within a reasonable period of time, the Commission will consider the current regulatory status, plans, and market structure of the country at issue, including the progress of liberalization or lack of it to date; the evidence or representations of

the parties themselves, and any statements of evidence offered by agencies of the U.S. (such as the State Department, Commerce Department, or USTR) or foreign governments. The length of what is a reasonable period shall be determined by the Commission, taking into account the pace at which progress is being (or has already been) made in regulatory and market structure liberalization in the country at issue; the nature of U.S. market entry at issue; the commitments toward liberalization offered by foreign regulatory authorities; the degree of injury likely to be suffered by U.S. customers and/or other U.S. carriers in the interim; and such other matters as the FCC deems appropriate. A period greater than two years shall be presumptively unreasonable, which presumption may be overcome upon a showing of de minimus harm to U.S. interests;

(3) "Foreign carriers" shall have the same meaning as defined in Section 63.01(r).

xx.03

For purposes of enforcing the provisions of this section, all foreign carriers or their U.S. affiliates acquiring or operating facilities in the United States shall:

(1) file those reports specified in Section 43.81 of these rules, on a quarterly basis;

(2) report on a quarterly basis all minutes of use terminated by the affiliated foreign carrier (and any of its foreign affiliates) on behalf of each corresponding U.S. carrier, and all minutes of use delivered by such foreign carrier (and any of its foreign affiliates) to each corresponding U.S. carrier. The foreign carrier (and its foreign affiliates) also shall provide and explain the methodology applied for the return of foreign-billed traffic to U.S. carriers.

(3) obtain additional approval for acquisition for operation of any additional capacity in, or transfer of ownership or control of, facilities;

(4) file reports on an annual basis, together with supplementary reports within thirty (30) days of any change, providing (1) the accounting rates

in effect between the foreign affiliate and all other telecommunications entities for all services; (2) all cost detail relevant to a claimed difference in cost justifying different accounting rates charged by the foreign affiliate to U.S. carriers as compared to other telecommunications entities; and (3) cost support justifying the accounting rates charged by foreign affiliates to U.S. carriers.

(5) file all agreements between the U.S. and foreign affiliate relating to the proportionate return of traffic by the foreign affiliate to U.S. carriers, or affecting directly or indirectly the return of traffic by any other foreign carrier and U.S. carriers, within thirty days of execution.

(6) file all commercial and technical arrangements with respect to the interconnection or distribution arrangements required by this rule, or otherwise offered or made available by the foreign carrier to its U.S. affiliate, within thirty days of execution;

(7) file all operating agreements entered into between the foreign carrier and its U.S. affiliate in accordance with Section 43.51, and all operating agreements entered into by the U.S. affiliate, its parent or affiliates that affect traffic or revenue flows to or from the U.S. within thirty (30) days of execution;

(8) file a description of all safeguards implemented by the foreign carrier to protect proprietary information provided to the foreign carrier by non-affiliated U.S. carriers, and any changes to those safeguards implemented that may occur; and

(9) comply with all current and future Commission policies and requirements concerning international accounting rates and proportionate return.

xx.04

The Commission will re-evaluate all findings that comparable competitive opportunity will occur within a reasonable period at least annually during, and at the expiration of, the period found to be reasonable in the initial order. If the Commission determines that events no longer

support such a finding, the Commission will take such measures as it deems appropriate to fulfill the purposes of this Section, which measures may include the revocation of any licenses, rights, or authorizations previously granted in reliance on the initial finding.

CERTIFICATE OF SERVICE

I, Chris Pereira, do hereby certify that on this 22nd of September 1993, a copy of American Telephone and Telegraph Company's Petition for Rulemaking, was mailed by U.S. first class mail, postage prepaid, to the parties listed on the attached service list.

Chris Pereira  
Chris Pereira

Dated: September 22, 1993

SERVICE LIST

Margaret Barnhill  
Bureau of International  
Communications and  
Information Policy  
Department of State  
2201 C Street, N.W.  
Room 6312  
Washington, D.C. 20520

Richard Beard  
Deputy U.S.  
Coordinator & Director  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 6313  
2201 C Street, N.W.  
Washington, D.C. 20520

Michael Fitch  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 6313  
2201 C Street, N.W.  
Washington, D.C. 20520

Daniel Goodspeed  
Counselor  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 5310  
2201 C Street, N.W.  
Washington, D.C. 20520

Thomas Sugrue  
Acting Assistant Secretary  
for Communications  
and Information  
U.S. Department of Commerce  
Room 4898  
14th Street &  
Constitution Avenue, N.W.  
Washington, D.C. 20230

Suzanne Settle  
Senior Policy Advisor  
NTIA  
Department of Commerce  
Room 4701  
14th St. & Constitution, N.W.  
Washington, D.C. 20230

Carl Wayne Smith  
Code AR Telecommunications  
Department of Defense  
The Pentagon, Room 3E182  
Washington, D.C. 20301-3040

Dr. T. P. Quinn, Deputy Asst.  
Secretary of Defense  
(Strategic & Tactical C3)  
OASD (C3I)  
The Pentagon, Room 3E160  
Washington, D.C. 20301-3040

John Grimes, Deputy Asst.  
Secretary of Defense  
(Defense YC3)  
The Pentagon, Room 3E194  
Washington, D.C. 20301-3040

Michael P. W. Stone 3E718  
Secretary of the Army  
Office of the Secretary  
Department of the Army  
The Pentagon  
Washington, D.C. 20310

H. Lawrence Garrett III 4E686  
Secretary of the Navy  
Office of the Secretary  
Department of the Navy  
The Pentagon  
Washington, D.C. 20310

Director, Nat'l.  
Security Agency  
EMC Center G04  
Room 1C166  
Ft. George G. Meade, MD 20755

Governor Bruce Sundlun  
Governor's Office  
State House  
Providence, R.I. 02903

Congressman Edward J. Markey  
Chairman  
U.S. House of Representatives  
Committee on Energy and  
Commerce  
Subcommittee on  
Telecommunications and Finance  
Washington, D.C. 20515-6119

Mickey Kantor  
U.S. Trade Representative  
600 17th St., N.W.  
Room 101  
Washington, D.C. 20506

J. M. Hammond  
First Secretary  
Environment, Energy and  
Telecommunications  
British Embassy  
3100 Massachusetts Ave., N.W.  
Washington, D.C. 20036

Jenner & Block  
601 13th Street, N.W.  
Washington, D.C. 20005

Joel S. Winnik, Esq.  
David W. Karp, Esq.  
Hogan & Hartson  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004

Colin R. Green  
The Solicitor and Chief  
Legal Advisor  
Group Legal Services  
British Telecommunications plc  
81 Newgate Street  
London EC1A 7AJ England  
United Kingdom

John M. Scorce, Esq.  
Jodi L. Cooper, Esq.  
MCI Telecommunications  
Corporation  
1801 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Leon M. Kestenbaum, Esq.  
Phyllis A. Whitten, Esq.  
Sprint Communications  
Company L.P.  
1850 M Street, N.W.  
11th Floor  
Washington, D.C. 20036

Andrew D. Lipman, Esq.  
Helen E. Disenhaus, Esq.  
Swidler & Berlin, Chartered  
3000 K Street, N.W.  
Suite 300  
Washington, D.C. 20007  
(Attorneys for ACC Global  
Corp.)

Frances D. R. Coleman, Esq.  
ACC Corp.  
39 State Street  
Rochester, New York 14614

Stefan M. Lopatkiewicz, Esq.  
Schnader, Harrison, Segal &  
Lewis  
1111 19th Street, N.W.  
Washington, D.C. 20036  
(Attorney for Graphnet, Inc.)

Gregory Olinyk  
Chairman  
Securities Communications  
Network, Inc.  
597 Weed Street  
New Canaan, Connecticut 06840

Gregory Staple, Esq.  
Koteen and Naftalin  
1150 Connecticut Avenue, N.W.  
Suite 1000  
Washington, D.C. 20036

Hector M. Lugo, President  
Telefonica Larga Distancia  
de Puerto Rico  
ILA Building  
No. 2 Marginal  
Kennedy Boulevard  
GPO 70325  
San Juan, Puerto Rico 00936

Ignacio Santillana Del Barrio  
President  
Telefonica Larga Distancia de  
Puerto Rico  
c/o Brown, Newsome & Cordova  
Plaza Scotiabank  
6th Floor  
273 Ponce de Leon Avenue  
Hato Rey, Puerto Rico 00917

James L. McHugh, Esquire  
Judith McNeil, Esquire  
Steptoe & Johnson  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Charles A. Tievsky  
Regulatory Attorney  
Cable & Wireless  
Communications, Inc.  
1919 Gallows Road  
Vienna, Virginia 22182

George S. Li, Chief\*  
International Facilities  
Division  
Common Carrier Bureau  
Federal Communication  
Commission  
1919 M Street, N.W.  
Room 530  
Washington, D.C. 20554

J. Warren\*  
Federal Communications  
Commission  
Room 530  
1919 M Street, N.W.  
Washington, D.C. 20554

W. Harris\*  
Federal Communications  
Commission  
Room 534  
1919 M Street, N.W.  
Washington, D.C. 20554

---

\* Hand Deliver